

DAVID B. MACOMB, HENRY W. BRACKENRIDGE AND WILLIAM B. NUTTALL V. MARCUS A. ARMSTEAD, ADMINISTRATOR OF JOHN G. ARMSTEAD.

The plaintiff in error had lodged with the clerk of the court a transcript of the record of the cause; but had failed to have the transcript filed, or the cause docketed, in pursuance of the rules of the court. The court refused to docket or dismiss the case, on the motion of the counsel of the defendant in error: who asked the court to dispense with the certificate required by the sixteenth rule of the court, and to substitute the transcript lodged with the clerk of the court by the plaintiff in error, as and for the said certificate.

By the Court. The defendant in error, to entitle himself to the benefit of the rule, must produce the certificate of the rule, as required by the rule.

IN error to the court of appeals for the territory of Florida.

Mr Mason, counsel for the defendant in error, having stated to the court that the plaintiffs in error, in this cause, had lodged with the clerk of this court a transcript of the record in the cause, but had failed to have said transcript filed, or the cause docketed, in pursuance of the rules of this court; moved the court to docket and dismiss this writ of error, under the nineteenth rule of this court for February term 1806, and to dispense with the certificate required by said rule, but to substitute the transcript for and as a certificate. On consideration, the court was of opinion, that the defendant in error, to entitle himself to the benefit of the rule, must produce the certificate of the clerk, as required by the rule. Whereupon it was ordered by the court, that the said motion be, and the same was overruled.